

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL BOSCHETTI,

No. C 13-2706 CW

Plaintiff,

ORDER RESOLVING
MISCELLANEOUS
MOTIONS (Docket
Nos. 35, 38)

v.

DANIEL O'BLENIS,

Defendant.

On December 12, 2013, Defendant Daniel Everett, named herein as Daniel O'Brien, filed an administrative motion seeking clarification of this Court's pre-filing order against him. Specifically, he sought to clarify whether the pre-filing order, which requires pre-filing review of "[a]ll notices of removal filed by Defendant" pertaining to San Francisco County Superior Court Case No. CUD 12-642905, applies to notices of removal to bankruptcy court. See Docket No. 23, Pre-Filing Order, at 2.

Plaintiff contends that the Court lacks jurisdiction to decide this motion because there is no case or controversy currently pending before the Court. However, as the Ninth Circuit has explained, a district court always has "jurisdiction to determine its own jurisdiction." Herman Family Revocable Trust v. Teddy Bear, 254 F.3d 802, 807 n.3 (9th Cir. 2001) (citing United States v. Van Cauwenberghe, 934 F.2d 1048, 1059 (9th Cir. 1991)). Because Defendant seeks clarification of the scope of this Court's own pre-filing order, the Court has jurisdiction to provide the limited relief that he seeks.

Turning to the merits of Defendant's motion, the Court finds that the pre-filing order applies to all notices of removal which Defendant files in San Francisco County Superior Court seeking to remove Case No. CUD 12-642905 to federal court. This includes notices of removal to any federal bankruptcy court in this district. The Court issued the pre-filing order to ensure that further judicial resources would not be wasted on Defendant's frivolous attempts to use the federal courts in this district to avoid enforcement of a state court judgment against him. See Docket No. 22, Order Remanding Case and Granting in Part Motion for Sanctions, at 4-6 (describing Defendant's past abuses of removal process). Requiring pre-filing review of Defendant's notices of removal to federal bankruptcy court is not only consistent with the terms of the pre-filing order but also necessary to achieve its basic purpose.

Accordingly, Defendant's administrative motion for clarification (Docket No. 35) is GRANTED. Any future notice of removal that Defendant files in San Francisco County Superior Court seeking to remove Case No. CUD 12-642905 to federal district court or federal bankruptcy court in the Northern District of California shall be subject to pre-filing review. Because the pre-filing order did not refer specifically to notices of removal to bankruptcy court, however, Plaintiff's request for contempt sanctions based on Defendant's past notices of removal to bankruptcy court is denied.¹ If Defendant seeks to remove this

¹ Plaintiff requested sanctions in a letter delivered to the Court on November 5, 2013 but failed to file this request in the docket.

1 case to bankruptcy court in this district in the future, he may be
2 subject to contempt sanctions.

3 Defendant's motion for leave to correct the wording of the
4 motion for clarification (Docket No. 38) is DENIED as moot.

5 IT IS SO ORDERED.

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7 Dated: 2/12/2014


8 CLAUDIA WILKEN
9 United States District Judge
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